

PRIORITY SEND
JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. EDCV 12-01711 VAP (OPx)

Date: October 25, 2012

Title: WEDGEWOOD COMMUNITY FUND II, LLC -v- ADALBERT M.
ZAMORA; PAMELA E. ZAMORA AND DOES 1 TO 10

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFFS:

ATTORNEYS PRESENT FOR
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO THE
CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF
SAN BERNARDINO (IN CHAMBERS)

This matter is appropriate for resolution without hearing pursuant to Local Rule 7-15 and stands submitted on the moving papers.

On October 5, 2012, alleging that this Court has federal question jurisdiction over the instant case, pro se Defendants Adalbert Zamora and Pamela Zamora removed the above-captioned unlawful detainer action to this Court from the California Superior Court for the County of San Bernardino. For the following reasons, the Court REMANDS this action to the California Superior Court for the County of San Bernardino.

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MINUTE ORDER of October 25, 2012

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441. The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (citing Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also In re Ford Motor Co./Citibank, 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court."). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c); FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) ("federal courts are under an independent obligation to examine their own jurisdiction"); see also Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.")

Defendants allege the bases for removal are federal question jurisdiction, 28 U.S.C. § 1441, and diversity jurisdiction, 28 U.S.C. 1332. From the face of the Complaint, Plaintiff's only claim is for unlawful detainer, a California state law action. See Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 10 (1983) (holding that a defendant may not remove a case to federal court unless the basis for federal jurisdiction is apparent on the face of the complaint). Without a federal question pled in a complaint, there is no federal question jurisdiction. Also from the face of the Complaint, the "demand does not exceed \$10,000.00," well below the \$75,000.00 in damages necessary to invoke diversity jurisdiction. Accordingly, the Court REMANDS this action to the California Superior Court for the County of San Bernardino and VACATES the hearing set for November 19, 2012.

IT IS SO ORDERED.